

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

BUILDING CODE APPEALS BOARD
DOCKET NO.: 11-1019

Thomas Theriault,
Appellant

v.

Lisa Rosario,
Appellees

BOARD'S RULING ON APPEAL

Introduction

This matter came before the State Building Code Appeals Board ("Board") on appellant's appeal filed pursuant to G.L. c.143, §100 and 780 CMR 122.1. In accordance with 780 CMR 122.3 the appellant petitioned the Board to make a determination based on the Eighth Edition of the Massachusetts State Building Code ("Code"). Because no appearances were made on behalf of the appellant, the appellant will be denied a variance from the electronically operating door striker mechanism and intercom system requirements to a front entry door of M.G.L. c. 143.

Procedural History

The Board convened a public hearing on July 19, 2011, in accordance with G.L. c. 30A, §§10 & 11; G.L. c. 143, §100; 801 CMR 1.02; and 780 CMR 122.3. All interested parties were provided with an opportunity to testify and present evidence to the Board.

Findings of Fact

There was no testimony presented at the hearing. The property at issue is located at 95 Summer Street, Haverhill, MA 01830.

Analysis

A. **Jurisdiction of the Board**

There is no question that the Board has jurisdiction to hear this case. The governing statute provides that:

Whoever is aggrieved by an interpretation, order, requirement, direction or failure to act by any state or local agency or any person or state or local agency charged with the administration or enforcement of the state building code or any of its rules and

regulations, except any specialized codes as described in section ninety-six, may within forty-five days after the service of notice thereof appeal from such interpretation, order, requirement, direction, or failure to act to the appeals board. G.L. c.143 §100.

The issues giving rise to this matter directly implicate provisions of the Code. As such, this Board has jurisdiction to decide this case pursuant to G.L. c. 143, §100.

Conclusion

Because no appearances were made on behalf of the appellant, a motion was made by Jacob Nunnemacher and seconded by Alexander MacLeod to deny appellant's request for variance from the electronically operating door striker mechanism and intercom system requirements to a front entry door of M.G.L. c. 143. The motion passed. The appellant's motion for variance is hereby **denied**.



Alexander MacLeod

Jacob Nunnemacher

Doug Semple

Any person aggrieved by a decision of the State Building Code Appeals Board may appeal to Superior Court in accordance with G.L. c.30A, §14 within 30 days of receipt of this decision.

DATED: November 8, 2011